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08 APR 18 PM 2:18

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO DIST OF CA S.J.

ADR

E-FILED C08 02034

JW

PVT

GAIL C. TRABISH, ESQ. (#103482)  
BOORNAZIAN, JENSEN & GARTHE  
A Professional Corporation  
555 12<sup>th</sup> Street, Suite 1800  
P. O. Box 12925  
Oakland, CA 94604-2925  
Telephone: (510) 834-4350  
Facsimile: (510) 839-1897

Attorneys for Defendant  
TARGET STORES, a division  
of Target Corporation, erroneously  
sued herein as Target Corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LYNN FAWKES and JOHN FAWKES,

Plaintiffs,

vs.

TARGET CORPORATION, and DOES 1-40,  
inclusive,

Defendants.

Case No.:

[Monterey County Case No.: M89608]

PETITION FOR REMOVAL OF  
ACTION PURSUANT TO 28 U.S.C.  
§1441(b) [DIVERSITY]

Complaint Filed: March 7, 2008

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

BY FAX

PLEASE TAKE NOTICE that defendant TARGET STORES, a division of Target Corporation (hereinafter "TARGET"), erroneously sued herein as Target Corporation, hereby removes to this Court the state court action described below.

JURISDICTION

1. Defendant TARGET is informed and believes that plaintiffs Lynn Fawkes and John Fawkes are citizens of the State of California, and were at the time of the filing of the Complaint and this Notice of Removal.

2. Defendant TARGET is a Minnesota Corporation, whose principal place of business is Roseville, Minnesota.

3. TARGET is a publicly held corporation whose chairman and chief executive officer

1 is Bob Ulrich.

2 4. Defendant TARGET is not a citizen of the state in which this action is pending.

3 5. The matter in controversy allegedly exceeds the sum of \$75,000.00, exclusive of  
4 interest, attorneys' fees and costs.

5 6. This court has jurisdiction by virtue of 28 U.S.C. §1332 and 28 U.S.C. §1441(a).

6 **GROUND FOR REMOVAL**

7 7. On March 7, 2008, a civil action was commenced in the Monterey County Superior  
8 Court, Unlimited Jurisdiction, of the State of California, entitled *Lynn Fawkes, et al. v. Target*  
9 *Corporation, et al.*, Action No.: M89608. In said complaint, plaintiffs allege damages arising out  
10 of an incident at the Sand City Target store on August 14, 2007. A true and correct copy of the  
11 complaint is attached hereto as **Exhibit A**.

12 8. Defendant TARGET was served with a copy of said Complaint on March 27, 2008.  
13 A true and correct copy of the Proof of Service is attached hereto as **Exhibit B**.

14 9. Defendant TARGET has not yet filed an answer to plaintiffs' unverified complaint.

15 10. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1332, and  
16 the complaint is one which may be removed to this Court by defendant TARGET pursuant to the  
17 provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states, and  
18 the amount in controversy allegedly exceeds the sum of \$75,000, exclusive of interest and costs.

19 11. Defendant TARGET is the only named defendant in this action, and it is informed  
20 and believes that no other defendants have been served in this action.

21 Based on the foregoing, defendant TARGET respectfully requests that this Court accept  
22 removal of this action.

23 DATED: April 17, 2008

BOORNAZIAN, JENSEN & GARTHE  
A Professional Corporation

24 By: 

25 GAIL C. TRABISH, ESQ.  
26 Attorneys for Defendant  
27 TARGET STORES, a division of  
Target Corporation, erroneously sued  
herein as Target Corporation

28 GCT01\430780

**SUMMONS  
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO) :  
Target Corporation and Does 1 to 40

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTA DEMANDANDO EL DEMANDANTE) :  
Lynn Fawkes and John Fawkes

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**

**MAR 07 2008**

**CONNIE MAZZEI**  
**CLERK OF THE SUPERIOR COURT**  
**DEBORAH K. DINEEN**

3/27/08 2 1244 ✓

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Monterey County Superior Court  
Monterey Division  
1200 Aquajito Road

CASE NUMBER:  
(Número del Caso): **M 89608**

Monterey, CA 93940

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jim W. Yu, Esq.  
3 Altarinda Road, #202  
(925) 254-1234

Balamuth Harrington, LLP  
Orinda, CA 94563

DATE:

(Fecha)

**MAR 07 2008**

**CONNIE MAZZEI**

Clerk, by  
(Secretario)

**DEBORAH K. DINEEN**

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify) :

3. ☒ on behalf of (specify) :

under:

- Target Corporation*
- ☐ CCP 416.10 (corporation)
  - ☐ CCP 416.20 (defunct corporation)
  - ☐ CCP 416.40 (association or partnership)
  - ☐ other (specify) :

- ☐ CCP 416.60 (minor)
- ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.90 (authorized person)

4. ☒ by personal delivery on (date) : *3/21/08*

**EXHIBIT A**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jim W. Yu, Esq. Balamuth Harrington, LLP 3 Altarinda Road, #202 Orinda, CA 94563 TELEPHONE NO.: (925) 254-1234 FAX NO. (Optional): (925) 254-0778 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Lynn and John Fawkes		209118 FOR COURT USE ONLY  <h1>FILED</h1> MAR 07 2008 CONNIE MAZZEI CLERK OF THE SUPERIOR COURT <del>DEIRDRE K. DINEEN</del>	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Monterey STREET ADDRESS: 1200 Aquajito Road MAILING ADDRESS: CITY AND ZIP CODE: Monterey, CA 93940 BRANCH NAME: Monterey Division			
PLAINTIFF: Lynn Fawkes and John Fawkes  DEFENDANT: Target Corporation and			
<input checked="" type="checkbox"/> DOES 1 TO 40 COMPLAINT-Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): Premises Liability <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Other Damages (specify): Loss of Consortium			
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER:  <h2>M 89608</h2>	

1. Plaintiff (name or names): Lynn Fawkes and John Fawkes

alleges causes of action against defendant (name or names): Target Corporation and Does 1 to 40

2. This pleading, including attachments and exhibits, consists of the following number of pages: 4

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
  - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
  - (b) ☐ other (specify):
- (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
  - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
  - (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

Page 1 of 3

SHORT TITLE:

Fawkes v. Target Corporation, Inc. et al

CASE NUMBER:

4. ☐ Plaintiff (name):  
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

- a. ☒ except defendant (name):

Target Corporation

- (1) ☐ a business organization, form unknown  
(2) ☒ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):

- c. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown  
(2) ☐ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):

- b. ☒ except defendant (name):

Does 25 - 40

- (1) ☒ a business organization, form unknown  
(2) ☐ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):

- d. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown  
(2) ☐ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):

☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

- a. ☒ Doe defendants (specify Doe numbers): 1 - 40 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

- b. ☒ Doe defendants (specify Doe numbers): 1 - 40 are persons whose capacities are unknown to plaintiff.

7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a. ☐ at least one defendant now resides in its jurisdictional area.  
b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.  
c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.  
d. ☐ other (specify):

9. ☐ Plaintiff is required to comply with a claims statute, and

- a. ☐ has complied with applicable claims statutes, or  
b. ☐ is excused from complying because (specify):

SHORT TITLE:

Fawkes v. Target Corporation, Inc. et al.

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☒ Premises Liability
- f. ☐ Other (specify):

11. Plaintiff has suffered

- a. ☐ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☐ loss of earning capacity
- g. ☒ other damage (specify):

Plaintiff, John Fawkes, has loss of consortium damages arising from his wife's injuries.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: February 27, 2008

Jim W. Yu, Esq., Balamuth Harrington, LLP

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

Fawkes v. Targe. Corporation et al.

CASE NUMBER:

FIRST

(number)

## CAUSE OF ACTION - Premises Liability

Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint  
 (Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): Lynn Fawkes and John Fawkes  
 alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.  
 On (date): August 14, 2007 plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

A dangerous condition within the Target Store located at 2040 California Avenue, Sand City, California, caused plaintiff, Lynn Fawkes, to slip, fall and suffer serious, permanent and disabling injuries including, but not limited to, her neck, back, and right knee.

Plaintiff John Fawkes has loss of consortium damages to assert arising from his wife's injuries.

Prem.L-2. ☒ **Count One-Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):  
 Target Corporation and

☒ Does 1 to 40

Prem.L-3. ☒ **Count Two-Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names): Target Corporation and

☒ Does 1 to 40

Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

Prem.L-4. ☐ **Count Three-Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

- ☐ Does \_\_\_\_\_ to \_\_\_\_\_
- a. ☐ The defendant public entity had ☐ actual ☐ constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.
- b. ☐ The condition was created by employees of the defendant public entity.

Prem.L-5. a. ☒ **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):  
 Target Corporation and

☒ Does 1 to 40

- b. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are  
☐ described in attachment Prem.L-5.b ☐ as follows (names):

**CT CORPORATION**  
A WoltersKluwer Company

**Service of Process  
Transmittal**

03/28/2008

CT Log Number 513249178



**TO:** Carter Leuty  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403-

**RE:** Process Served in California

**FOR:** Target Corporation (Domestic State: MN)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

<b>TITLE OF ACTION:</b>	Lynn Fawkes and John Fawkes, Pltfs. vs. Target Corporation, et al., Dfts.
<b>DOCUMENT(S) SERVED:</b>	Summons, Complaint, Cover Sheet, Notice of Case Management Conference, Request Form, Attachment(s)
<b>COURT/AGENCY:</b>	Monterey County, Monterey, Superior Court, CA Case # M89608
<b>NATURE OF ACTION:</b>	Personal Injury - Slip/Trip and Fall - August 14, 2007
<b>ON WHOM PROCESS WAS SERVED:</b>	C T Corporation System, Los Angeles, CA
<b>DATE AND HOUR OF SERVICE:</b>	By Process Server on 03/27/2008 at 12:45
<b>APPEARANCE OR ANSWER DUE:</b>	Within 30 days after service
<b>ATTORNEY(S) / SENDER(S):</b>	Jim W. Yu Balamuth Harrington, LLP 3 Altarinda Road #202 Orinda, CA 94563 925 254 1234
<b>ACTION ITEMS:</b>	SOP Papers with Transmittal, via Fed Ex Standard Overnight , 798907021852
<b>SIGNED:</b>	C T Corporation System
<b>PER:</b>	Nancy Flores
<b>ADDRESS:</b>	818 West Seventh Street Los Angeles, CA 90017
<b>TELEPHONE:</b>	213-337-4615

Page 1 of 1 / WM

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

**EXHIBIT B**

**CERTIFICATE OF SERVICE**  
**(28 U.S.C. §1746)**

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **PETITION FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441(b) [DIVERSITY]; CIVIL CASE COVER SHEET**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Jim W. Yu, Esq.  
Balamuth Harrington, LLP  
3 Altarinda Road, #202  
Orinda, CA 94563  
(925) 254-1234 phone  
(925) 254-0778 fax

**Attorneys for Plaintiff**

I declare under penalty of perjury that the foregoing is true and correct. Executed at Oakland, California on April 18, 2008.



ALEXINE BRAUN

GCT01M430780

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

## DEFENDANTS

TARGET CORPORATION, et al.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Gail C. Trabish, Esq. (#103482), BOORNAZIAN, JENSEN & GARTH  
555 12th Street, Ste. #800, P.O. Box 72925, Oakland, CA 94604-2925  
(510) 834-4350 Phone; (510) 839-1897 Fax

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	Med. Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	28 USC 157	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 630 Liquor Laws	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<b>LABOR</b>	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 490 Cable/Sat. TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/Exchange	
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions	
			<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts	
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 892 Economic Stabilization Act	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	<b>IMMIGRATION</b>		<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities—Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 463 Habeas Corpus—Alien Detainee		<input type="checkbox"/> 950 Constitutionality of State Statutes	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities—Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 465 Other Immigration Actions			
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition				

☐ 1 Original Proceeding    ☒ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 another district (specify)    ☐ 6 Multidistrict Litigation    ☐ 7 Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1441(b), 28 USC 1332

**Brief description of cause:**

### Diversity, Premises Liability

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE  
"NOTICE OF RELATED CASE".

(PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND

**SAN JOSE**

DATE  
April 17, 2008

**SIGNATURE OF ATTORNEY OF RECORD**

XYALE